

Applicants: Scholten et al.  
Serial No. 10/826,189  
Page 2

### REMARKS

The drawings and specification were objected to for various informalities. With respect to reference numeral "120", that number is described at page 14 of the filed application. With respect to numeral "121", a correct drawing sheet is attached with the reference numeral added.

With respect to the double patenting rejection, Applicant will address the merits of such a rejection upon an indication of allowable subject matter.

Claims 1-11, 14-21, 24-39, 42-49 and 53-54 stand rejected under 35 USC § 102(b) as being anticipated by Wohlgemuth, (U.S. Patent No. 6,029,087). Claims 12-13, 22-23, 40-41 and 50-52 stand rejected under 35 USC § 103(a) as being unpatentable over Wohlgemuth, (U.S. Patent No. 6,029,087) in view of van Krieken, (U.S. Patent No. 5,674,254). Applicant respectfully traverses these rejections.

In order for a reference to anticipate a claim, each element of the claim must be provided within the reference. Contrary to the Examiner's assertion, Wohlgemuth does not teach, among other things, determining whether a paced pulse captures the heart based upon morphological characteristics. As such the rejection is unsupported and must be withdrawn.

Wohlgemuth provides various techniques to process and analyze sensed cardiac signals based upon digital signal processing. For example, such techniques are used to identify an intrinsic R wave, T wave, FFRW, etc.

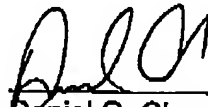
The Examiner notes Col. 4, lines 53-65. This section teaches that all "sensed" inputs pass through DSP 36. The reference teaches that in dual chamber devices, there would be additional channels that are input for various reasons including rate control, capture detection, etc. There have been various mechanisms employed to determine capture and of course, the sensory input would be obtained through such channels. The reference does not teach using the DSP processing techniques disclosed to determine the morphology of a signal in order to determine if there is capture (CAP) or loss of capture (LOC), as is presently disclosed and claimed.

Applicants: Scholten et al.  
Serial No. 10/826,189  
Page 3

As such, the reference does not anticipate the claims nor render them obvious when combined. Applicant respectfully asserts that the claims are in condition for allowance and requests notice of the same. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters.

Respectfully submitted,

Date: 4/5/05



Daniel G. Chapik  
Reg. 43,424  
Telephone: (763) 514-3066  
Customer No. 27581